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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/053,387

01/17/2002

Jian Ling Ding

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08/14/2008

GREENBERG TRAURIG LLP (LA)

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INTELLECTUAL PROPERTY DEPARTMENT

SANTA MONICA, CA 90404

EXAMINER

GHALI, ISIS A D

ART UNIT

PAPER NUMBER

1611

MAIL DATE

DELIVERY MODE

08/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/053,387	Applicant(s) DING ET AL.	
	Examiner Isis A. Ghali	Art Unit 1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-8,10,13,16,18-32 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5-8,10,13,16 and 18-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The receipt is acknowledged of applicants' amendment and request for RCE, both filed 06/05/2008.

Claims 2, 3, 5-8, 10, 13, 16, 18-32, 35-39 are pending.

Claims 1, 4, 9, 11, 12, 14, 15, 17, 33 and 34 have been canceled.

Claims 2, 3, 5-8, 10, 13, 18-31 have been withdrawn from further consideration as being drawn to nonelected invention. Election was made with traverse in the reply filed on 03/12/2004. Claim 16 has been withdrawn as directed to nonelected invention without traverse during telephone conversation with Mr. Wall on 09/12/2007.

Claims 32, 35-39 are included in the prosecution.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

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has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/05/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 32, 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of 4,738,257 ('257) and US 4,335,026 ('026).

US '257 teaches wound dressing comprises wound contact layer comprising elastomeric continuous phase with particulate water-absorbing hydrocolloid phase

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dispersed therein (abstract; col.5, lines 9-13). The wound dressing increases fluid absorption without including dislodgment and leakage and facilitates one piece removal with minimal wound irritation (col.2, 42-48; col.3, lines 27-30). The hydrocolloid particulate is selected from CMC, pectin, and karaya gum, and forms 40-60% of wound contacting layer (col.5, lines 40-55; col.6, lines 25-30). The elastomeric phase comprises 20-35% polyisobutylene (PIB), 5-25% cross-linker such as styrene-olefin-styrene that reads on styrenic block copolymer claimed by claim 37, 1-7% oils that read on plasticizer claimed by claim 32, and further comprises superabsorbent and/or fumed silica that read on additives claimed by claim 38 (col.5, lines 65-68; col.6, lines 1-12, 25-30, 38-47, 59-68; col.10, 44). The oils, superabsorbent, and petrolatum disclosed by the reference all read on therapeutic agents claimed by claim 35. The reference further teaches material to improve the dry tack of the composition comprising polymer of dicyclopentadiene (col.6, lines 53-57).

Although US '257 suggests polymers of dicyclopentadiene wherein dicyclopentadiene reads on diene part of the polymer, and although the reference teaches elastomeric polymer forming the continuous phase, however, the reference does not explicitly teach EPDM as polymer containing diene as required by claim 32.

US '026 teaches an adhesive composition for application to the skin as an adhesive bandage and tape suitable for covering wound and having decreased resistance to peel removal while maintaining high shear resistance in air and in water (abstract; col.1, lines 7-17; col.3, lines 50-55). The preferred adhesive composition comprises ethylene-propylene-diene monomer terpolymer wherein the ratio of ethylene

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to propylene is 3:1, i.e. 75% ethylene and 25% propylene (col.2, lines 57-61). The composition further comprises, styrene block copolymer in an amount of 25-42%, elastomer stabilizer, plasticizer, and anti-oxidants, which read on the active agent (col.2, lines 20-33, 42-44; col.3, lines 30-33; col.5, lines 27-29; col.5, examples I-III).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide wound dressing comprises wound contact layer comprising elastomeric phase with particulate water-absorbing hydrocolloid phase dispersed therein wherein the elastomeric phase comprises PIB and polymer of dicyclopentadiene as disclosed by US '257, and replace the polymer of dicyclopentadiene with EPDM polymer having 75% ethylene and 25% propylene disclosed by US '026 because US '026 teaches that adhesive comprising EPDM polymer having this ratio of ethylene and propylene is preferred and suitable for wound dressing, and provides decreased resistance to peel removal while maintaining high shear resistance in air and in water, with reasonable expectation of having hydrocolloid adhesive composition comprising EPDM polymer having ratio of ethylene to propylene of 3:1, polyisobutylene, and hydrophilic particles wherein the hydrocolloid adhesive composition is non-irritating to the skin and has decreased resistance to peel removal while maintaining high shear resistance in air and in water.

Response to Arguments

5. Applicant's arguments with respect to claims 32, 35-39 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on (571) 272-0614. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Isis A Ghali/
Primary Examiner, Art Unit 1611

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